



City of Broken Arrow

Minutes
City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Richard Carter
Councilor Mike Lester
Councilor Johnnie Parks
Councilor Scott Eudey

Tuesday, April 5, 2016

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 6:30 p.m.

2. Invocation

Pastor Scott Keele delivered the invocation.

3. Roll Call

Present: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

4. Pledge of Allegiance to the Flag

Councilman Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated he needed to remove item 5R because of a conflict. He asked if there were any other items to remove from the Consent Agenda. There being no other items, he asked for a motion.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve the Consent Agenda excluding item 5R

The motion carried by the following vote:

Aye:

5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

A. 16-370

Approval of Broken Arrow City Council Minutes of March 15, 2016

B. 16-345

Acceptance of minutes of Planning Commission meeting held February 25, 2016

C. 16-348

Approval and authorization to execute Earth Change Pay Request Number 8 for earth work to Tri-Star Construction, LLC, and utility work to Davis H. Elliott Construction Company, Inc., through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center

D. 16-357

Approval and authorization to execute Pay Request Number 9 for Professional Design Services through the Vision 2025 Sales Tax Program in association with the Stoney Creek Hotel and Conference Center

E. 16-349

Approval and authorization to execute Amendment No. 1 to Agreement for Professional Consulting Services for 37th Street - Omaha to Albany (Project No. ST1112)

F. 16-358

Approval and authorization to execute a sole source Service Agreement with SeeClickFix to provide software services for the new online citizen reporting tool and mobile application

G. 16-354

Approval and authorization to execute a contract between Resource Management Associates and the City of Broken Arrow to provide Promotional Examinations for the Fire Department

H. 16-318

Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the Broken Arrow Volleyball Club for the use of Nienhuis Park Community Center

I. 16-343

Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the R.C. Dickenson Family YMCA of Greater Tulsa for use of the Country Aire Swimming Pool

J. 16-344

Approval and authorization to execute a Parks and Recreation Use Agreement between the City of Broken Arrow and the R.C. Dickenson Family YMCA of Greater Tulsa for use of the Family Aquatic Center

K. 16-352

Approval and authorization to execute Change Orders 1-5 to the System Installation Agreement with Ford Audio-Video for integrating equipment utilized in the video production system, adding controls for cameras, installation of a new countdown timer system, installation of executive session lighting outside the Council Chambers, and adding equipment to activate the LED lights at the base of dais microphones (originally purchased pursuant to the State contract)

- L. 16-327 **Approval and authorization for the sole source purchase of 11 Naviline Mobile Data Brower Client Licenses, 25 Naviline Field Incident Reporting Licenses, and 36 License Maintenance agreements from SunGard Public Sector for police mobile data solution**
- M. 16-368 **Review of bids received, award of the lowest responsible bid to A&A Asphalt, Inc, and approval and authorization to execute a non-encumbered construction contract for Cold Milling Asphalt Streets - Option 3**
- N. 16-304 **Approval of the final acceptance of the public improvements for Casey's General Store located at 2400 East Albany Street**
- O. 16-321 **Approval of the final acceptance of the public improvement (paving) for Access Optics, located at 2201 North Maple Avenue, Broken Arrow, Oklahoma**
- P. 16-326 **Approval of the final acceptance of the public improvement (paving) for Hillside Crossing Retail Center, located at 901 East Hillside Drive, Broken Arrow, Oklahoma**
- Q. 16-340 **Approval of PT15-103, Conditional Final Plat, Riverstone Estates, 103 lots, 37.28 acres, A-1 to RS-3, one-third mile east of Olive Avenue, south of Tucson Street**
- R. 16-341 **Approval of PT15-114, Conditional Final Plat, Villas at Bricktown, 32 lots, 11.58 acres, R-1 to PUD 240/RS-3, north of the northeast corner of Kenosha Street and Olive Avenue**
- S. 16-382 **Approval of the Broken Arrow City Council Claims List for April 05, 2016**

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond left the room.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to approve item 5R

The motion carried by the following vote:

Aye: 4 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter
Abstain: 1 - Craig Thurmond

Mayor Thurmond returned to the room.

7. Public Hearings, Appeals, Presentations, Recognitions, Awards

- A. 16-315 **Discussion, consideration, presentation, approval and authorization for the Mayor to execute a Proclamation declaring the week of April 10-16, 2016, as "Volunteers in Police Service Week" in the City of Broken Arrow, recognition of the volunteers and presentation of the symbolic "check" for the services provided**

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to approve the Proclamation of April 10-16, 2016 as "Volunteers in Police Service Week"

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Police Chief Boggs said that as he had learned early, being given the honor of being in charge: you couldn't do anything without the help of a lot of people. Crime Prevention Specialist Lisa Ford had done a great job with the volunteers, of which there were 67 at the outset. Chief Boggs asked her later why they shouldn't aim for one hundred and the Police Department currently had 199 volunteers. In the past year they had given over 20,200 hours, or the equivalent of an additional ten, full-time employees, whose combined work was valued at approximately \$466,000. He asked that they be given a round of applause and declared that the volunteers had something they wanted to present to the Mayor. The volunteers presented the Mayor with an enlarged, symbolic Police Department check made out to the City of Broken Arrow. Mayor Thurmond thanked the volunteers, saying their work was much appreciated and that it did make a difference.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services

Mayor Thurmond stated that two people had signed up to speak together. Kay Helm, 215 West Jackson Street, stated that they would be speaking on the Yesterday and Today Antique Mall, located at 406 North Main Street. Gayle Taylor, another employee, 720 West Boston Street, introduced himself. Ms. Helm explained that the Antique Mall was in the Rose District, and every year the Rooster Days Parade barricades blocked the business, which held about 140 merchants and their booths. The previous year's parade had resulted in Mr. Taylor not being able to reach the Antique Mall to open for business. Although the City announced that a barricade would be placed at College Street, it was actually placed on Freeport Street. They had come to appeal to the Council in the hope that if they stated their case in advance of 30 days before the parade, they might be able to work something out to prevent the problem from arising again in 2016. Ms. Helm stated that the owner of the Antique Mall was paying taxes for his business to be in the Rose District and indicated that there was a second location at 412 North Main Street from which the owner did business, as well. Another main concern that arose on the day of the Parade

was parking. She reiterated that the blocking off and barricading deviated from the plan disseminated to the public by the Police, and it was causing a problem. The business was being affected and was not receiving the usual foot traffic on the Parade day. She concluded by asking the Council's help in the matter.

Mayor Thurmond informed Ms. Helm and Mr. Taylor that he could not take any action that night since the issue was not on the agenda. He stated that Chief Boggs would address it for them.

9. General Council Business

A. 16-356

Consideration, discussion, possible acceptance of the City of Broken Arrow's Audit Report for Fiscal Year 2014-2015

Tom Caldwell, Director of the Department of Finance, said that LaDonna Sinning of the audit firm Arledge and Associates was there to present the prior fiscal year's audit. He reported that they had run into an interesting accounting issue for which they had to recognize the liability of the State for the Police and Fire pension funds in their financial statements, but with Ms. Sinning's help they worked it out.

Ms. Sinning referred to the three documents she had provided copies of to the Council. The letter from Arledge and Associates represented their required communication. It was based on the professional standards of items that, as stated, they were required to communicate. There was not much of note to report, aside from some changes in accounting standards, as mentioned by Mr. Caldwell. The single audit report was issued to him because in the last fiscal year the City had expended more than \$500,000 in federal monies, which required a single audit. Going forward, the number was going up to \$750,000, but it would not impact the City of Broken Arrow as it was still well above that. The report was on internal controls and compliance, and presented clean opinions without findings. The major program that was closely examined was the Community Develop Block Grant, the largest grant and only major program. On page 2 could be found the independent auditor's report, also a clean opinion with no qualifications. She wished to bring to their attention, because it was unusual, the heading on the second page of their opinion Emphasis of a Matter. That was where they pointed out the adoption of that pension guidance that required them to record their proportionate share of state-wide pension liabilities. It did not qualify their opinion, but they wished to draw the Council's attention to it. In the same vein, she referred them to page 11, where there they could find the city-wide "balance sheet;" the statement of net position at the bottom showed that their unrestricted net position was now a deficit. That was the impact of the pension liabilities, representing a significant swing. The implementation of the pension standards required them to actually restate the beginning net assets, so that they had to go back and figure what the net assets would have been had the pension liability been booked in 2014. On page 25 could be found the explanation for that. The beginning net position that she had reported the previous year was \$212 million. The implementation of Governmental Accounting Standards Board (GASB) 68 and 71 was a liability of almost \$46 million, so that dropped the beginning net position down to \$166.6 million. She concluded that it was, by and large, the state-wide fireman's pension that was substantially underfunded, and when it was allocated to the cities, that was where the majority of the liability lay.

The Mayor commented that it was a clean audit and an unqualified audit. Ms. Sinning reaffirmed that it was, adding that the City of Broken Arrow had a remarkable Finance Department. Arledge and Associates audited somewhere around 35 cities in Oklahoma, and Broken Arrow's Finance Department had, by far, the most talent. She appreciated working with all of them.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.

Move to accept the Audit Report for Fiscal Year 2014-2015

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-337

Consideration, discussion, and possible approval of a 30-day suspension of a low-point beer City license issued to Rooster Corner located at 1535 South Main Street, Broken Arrow, Oklahoma, effective April 6, 2016, pursuant to Chapter 4, Section 4-96 of the Broken Arrow Code of Ordinances, for repeated violations of selling beer to minors

City Attorney Beth Anne Wilkening recalled that the matter had been set for public hearing for the City Council, which was the method prescribed in the Code of Ordinances. The individual responsible for the business had asked for the opportunity to visit with the Legal Department and Sergeant Nestor, the Police Department representative who spearheaded the matter. The Police Chief and Sergeant Nestor had approached the Legal Department initially, requesting that action be taken against their low-point beer license, issued by the City, because of a number of convictions their clerks had received for selling tobacco products and alcohol to minors. They were able to sit down with the owner and negotiated a 30-day suspension of his license to sell beer. Ms. Wilkening related that they had just been informed that the store was under new management. Their intent was to preclude

anyone operating at that location from selling beer. If it were, in fact, a new business, they would have to apply for a license, and the Legal Department would be requesting that Development Services deny it so that they would not be able to sell beer even under different ownership during the 30-day period. The owner agreed that the 30-day suspension would be in effect immediately after the Council approved it, and would remain in effect for 30 days. She requested that the Council suspend Rooster Corner's low-point beer license for a period of 30 days, effective April 6, 2016.

Councilman Lester asked a question with regard to what would happen should the problem arise again. Ms. Wilkening replied that the Ordinance allowed a suspension of up to 60 days, so that would probably be the next logical step, and if it went beyond that it would mean a complete revocation of the license. Sergeant Nestor was doing an excellent job of staying on top of such infractions, following up on them, and holding the parties accountable. Councilman Eudey asked if the employee involved was still working there. Ms. Wilkening said that it was one of the first things she had asked the owner and the owner replied, "Do you want me to fire her?" Ms. Wilkening impressed upon the owner the need for employees to be vigilant in checking identification and ensuring that they were following the law. The owner assured them that the woman in question had received more training. The City would be doing some spot checking. Councilman Parks asked for clarification with regard to who bore responsibility. Ms. Wilkening answered that it should go to the business, but it varied because a lot of businesses had limited liability (LLCs), so whoever applied for the license bore the actual responsibility.

MOTION: A motion was made by Scott Eudey, seconded by Richard Carter.

Move to suspend Rooster Corner's low-point beer license for a period of 30 days, effective April 6, 2016

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

C. 16-342

Consideration, discussion, possible approval of proposed columbarium style and placement plan, authorization for the Park Grove Cemetery staff to plan, budget, and solicit bids for the purchase of the first columbarium set and add the niche pricing to the Manual of Fees

Lee Zirk, General Service Director, explained that the purpose of a columbarium and associated cremation niches was to give family members a place to pay their respects to a loved one's cremated remains. Park Grove did not have any columbaria at present and having a columbarium would help increase the range of choices for customers, and provide additional revenue and space, as well. On February 17th the Council had approved reserving space at Park Grove Cemetery for columbaria. As he had indicated then, he was returning to give the Council an idea of how it would look and also in order to illustrate the plan going forward. Pointing to illustrations on the screen, he stated that it was what the Cemetery sextant recommended be placed in the area. The rectangular box containers constituted a columbarium set holding 312 places. The following screen showed a diagram illustrating the proposed niche placement layout in Section N. He pointed out the area in pink as "Babyland," 50 percent of which would remain so. The remaining 50 percent was what they had reserved for the columbaria. The columbaria set would cost about \$60,000, plus about \$15,000 for the footings. Once the columbarium was 75 percent full, they would direct the cemetery sextant to begin building the second set, and when that was 75 percent full, they would build the third. When the third was at 75 percent capacity, they would construct the last area, making maximum use of space by installing only wing units, which would serve to provide additional space for customers to purchase. He specified that the nice thing about the section was that there were roads on two sides, providing easy access to the columbarium area. It was also in convenient proximity to the Cemetery office.

Mr. Zirk brought up on the screen a comparison of what other cemeteries charged for their columbaria. Park Grove's pricing for columbarium niches was very competitive and affordable, being at the lower end of the scale. Opening and closing prices would be included and different levels of pricing would be available, the more desirable, higher units, closer to eye level, commanding a higher fee. The wing section offered less area to accommodate cremated remains and the niches were a little lower in price. Non-residents would be charged higher fees, as they were in payment for gravesites.

They were awaiting the Council's decision to move forward with the plan and design, and then they could direct the cemetery sextant to budget it and bid out. Hopefully, within the next fiscal year, they could proceed with putting it all together and offer cremation niches to the public.

Councilman Lester asked how the numbers worked with respect to the Cemetery's own expenses on the project, versus the fees they were charging the public. Turning to the Fact Sheet in his report, Mr. Zirk said that based on the estimated costs given there, a single niche would cost the City about \$240. The lowest priced niche would sell for \$1,200.

There would be, in all, over a thousand niches eventually placed in the area. One 312-niche columbarium would represent a net increase of \$230,000 in revenue for the City, compared to sale as space for traditional graves. The Mayor requested confirmation that the figures were based on hard cost and did not reflect employee and maintenance costs. Mr. Zirk replied that he was correct. Mr. Spurgeon commented that he wished to thank Mr. Zirk and his team for all the work they had done in compiling information on a product and service that the community needed.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to approve the proposed columbarium style and placement plan and authorize Park Grove Cemetery staff to plan, budget, and solicit bids for the purchase of the first columbarium set and add the niche pricing to the Manual of Fees

The motion carried by the following vote:

Aye: 5- Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

D. 16-346 Consideration, discussion, possible approval of bids received, extension of the time to award the bids by 15 days for good cause shown, awarding of the lowest responsible bids to Cherokee Pride Construction, Inc., and Tri-Star Construction, LLC, and approval and authorization to execute two unencumbered construction contracts for Portland Cement Concrete Street Repairs

Assistant City Manager over operations, Ken Schwab, recalled that typically the City had an annual concrete repair contract applying mainly to streets. The contract would be extended for a year and usually the City would advertise and go out to bids again between the second and third year. In the past couple of years they had contracted Cherokee Pride, but in 2016 they decided that due to the nature of the work and the contractor's unavailability on occasion, they would do well to go with two contractors. It was their intent to go with the lowest and second lowest responsible bidders and on March 3rd they opened bids, with Cherokee Pride and Tri-Star Construction coming in as the lowest bidders. He noted that State statutes under the Competitive Bid Act required a governing body to act within 30 days to award a contract from the opening, though the governing body could ask for an extension. They wrote to both contractors asking for an extension and both agreed that it was acceptable. The need for an extension was just owing to the timing from March 3rd to April 5th. Cherokee Pride came in at just over \$167,800, and Tri-Star's bid was just under \$200,000. The contracts were unencumbered so that the City could identify a project or part of a project, e.g. curbs and gutters, pavement repair, concrete swells, and they could do a work order for it. They could then take the unit prices bid on in the contract, add them up, and if it were under \$25,000, they could go to the City Manager and execute the contract, which would later be brought before the Council for their acknowledgement. If the sum were over \$25,000, it would be brought to the Council. Mr. Schwab recommended that they enter into contract with both contractors.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.

Move to accept the bids received, to extend the time to award the bids for good cause shown, award the lowest responsible bids to Cherokee Pride Construction, Inc. and Tri-Star Construction, LLC, and approve and authorize execution of two unencumbered contracts for Portland Cement Concrete Street Repairs

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Ms. Wilkening interjected that the Public Competitive Bidding Act required that formal Council action be taken for good cause shown with extending the time to award the bids. She explained that the reason that that was done was because they had gone three weeks between Council meetings, and they felt it was a reasonable accommodation. In case they were desiring some reinforcement, that was good cause shown.

E. 16-381 Consideration, discussion, possible approval and authorization to execute Resolution No. 914 for assignment of the three Material Procurement Contracts to the Construction Contract for the Rose District Farmers Market Interactive Water Feature, and authorization to execute the three Assignments of Contract (Project No. 161708)

Ms. Wilkening stated that the item should follow item F, requesting that they take up item F first. Mayor Thurmond agreed.

Following the discussion and vote on item 9F, Ms. Wilkening stated that the Public Competitive Bidding Act required a formal resolution by the City Council or other public body in order to assign contracts. Mr. Schwab and she had a discussion regarding the item, which she also took up with the Department of Engineering/Construction staff. One difficulty brought up in discussion pertained to the steel filters and the \$10,800 bid for the screening, for which they initially had trouble obtaining a bond. However, Mr. Schwab thought that it would probably be covered by Magnum Construction. In any event, the bond wouldn't be required by the Public Competitive Bidding Act. It was requested that the Council approve Resolution No. 914 and authorize its execution. Ms. Wilkening specified that approval would assign the contracts that were awarded at the previous City

Council meeting for the granite decking, steel filters, nozzles, LED lights and the controls. She pointed out again, they were bid separately in order to expedite construction.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to approve Resolution No. 914 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

F. 16-350

Consideration, discussion, possible approval of bids received, award of the lowest responsible bid to Magnum Construction, Inc., and approval and authorization to execute a construction contract for Rose District Farmers Market Interactive Water Feature (Project No. 161708)

Mr. Schwab reported that on March 24th they opened bids for actual construction of the improvements, which included the at-grade fountain, lighting, electrical controls, mechanical components, water recirculation, and any site improvement of the existing pavers, drainage system, and utilities. When the City solicited bids prospective contractors understood that it was seeking procurement of some long lead items. He recalled that those items were submitted to the Council for approval at the March 15th meeting. Once the City secured the cost of each procurement package, those costs were included in the contractors' bids; contractors didn't get to bid on them and they were just written in. By state statutes, they would do all the bonding with regard to performance, maintenance and statutory bonds, on the full contract price, which included the procurement package. Two bids were received and the lowest that came was for \$1,322,541, from Magnum Construction. The City engineer's estimate for the entire work had been just over \$1.5 million. He added that the funding packages were under the Vision 2025 excess sales tax, as well as the 2014 Street General Obligation Bond.

Mr. Spurgeon requested that Mr. Schwab touch on the construction schedule. Mr. Schwab said they had tried to expedite some of the long lead items. The work was projected to begin in early May and the fountain would be operational around August or September, with a completion date of early October. Councilman Lester asked what difference it would make if they started after Rooster Days. Mr. Schwab answered that contractors had been given a schedule of events, including parade dates, for Downtown. They would start with mobilization in early May but would avoid tearing anything up until after Rooster Days, as was indicated to contractors as mandatory in pre-bids.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to award the lowest responsible bid to Magnum Construction, Inc., and approve and authorize execution of a construction contract for Rose District Farmers Market Interactive Water Feature

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

G. 16-355

Presentation, discussion and possible selection of Young Strategies for the Tourism Market Research and Asset Inventory, for a project cost of \$54,160.00

Director of Tourism Lori Hill, Convention and Visitors Bureau (CVB), reported that City staff presented a project proposal of a tourism, market research, and asset inventory to the CVB at their November 9, 2015 meeting. The tourism asset inventory would provide a program abort for future programming, and would give the CVB direction by identifying what attracts visitors to Broken Arrow. The project would identify core elements for future brand development and provide analysis of the cultural/sports convention group markets, as well as strategy recommendations for growth and development in all areas.

The CVB approved the tourism asset inventory project at their December 14, 2015 meeting, and directed staff to issue a Request for Proposal (RFP). The RFP was sent to 13 vendors and 5 responses were received. While Destination Strategy Partners submitted the lowest cost proposal at \$24,750, and had experience in the CVB industry, City staff didn't feel that their proposal and project scope reflected the degree of experience necessary for the project, being that they were based, and operated primarily, in the State of Florida. Young Strategies submitted the next lowest bid of \$54,160. Their proposal, work plan and methods were in line with the desired outcome for the project. Their scope included client meetings, organization review, lodging surveys, hotelier interviews, and research and analysis. In addition, Young Strategies provided visitor profile research by means of market segmentation. The company had experience covering over 100 destinations in 27 states, including Oklahoma. Staff recommended that the City Council approve the selection of Young Strategies as the vendor to provide the Broken Arrow asset inventory, at the cost of \$54,160. They believed that Young Strategies understood the project's scope and had the experience and expertise to manage the job from start to finish. The timeframe for completion of the asset inventory was the end of 2016. Ms. Hill pointed out that it was possible that they might be able to pull a majority of the funding from CVB's current budget for the fiscal year, without taking from the fund balance. Ms. Hill stated that she wished to introduce Berkeley Young, President of Young Strategies, and Steve Powell, President of Destination Services, both with the project team of the

proposed asset inventory project. Mr. Young would present a summary of the project with respect to his company.

Mr. Young stepped forward to address the Council, pointing out and introducing Mr. Powell, on his left. Mr. Young said his company had worked with the Cities of Enid, Oklahoma City, Shawnee, and Bartlesville, in Oklahoma, and quite a number of cities in the Midwest. His company brought to the table a lot of experience and their sole business was working with destinations. Theirs was an economic development approach, with a focus on demonstrating how a city could bring in more revenue without raising taxes on citizens. People from out-of-town could be induced to visit and spend money, putting sales tax revenue in city coffers. Mr. Young went on to say that it was very competitive field, with cities everywhere understanding the economic impact of travel and tourism, and they had to make sure that Broken Arrow had a smart strategy to bring in visitors, while understanding that not all visitors were alike. The array of visitors might include sports enthusiasts, business travelers, patrons of individual companies, people coming in connection with the hospital or courthouse, and so on. They must take into account all segments of travelers that came, the times of year they came, while keeping in mind how they could deliver the highest and best return on investment of hotel tax dollars. Mr. Young stated that his team was very flexible and would understand what made Broken Arrow unique in order to drive increased visitation. They paid a lot of attention to detail and in the course of their project work they would make sure they got to know City leaders, representatives and staff from the outset, with a view to finding what their concerns were and what answers Young Strategies could bring to the table. Mr. Young concluded by saying that they prided themselves in positive reports and positive solutions so that they would have smart strategy to move forward, using the travel industry for economic development in Broken Arrow.

Mr. Spurgeon said he was asking for the Council's approval, echoing Ms. Hill's recommendation, and stated that tourism was an important driver of economic development. Looking at the assets that they had, it all hinged on how they could pull it all together to come up with ways to capture more of that market. He was confident that Young Strategies possessed the team that could do it for Broken Arrow.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to approve selection of Young Strategies for the Tourism Market Research and Asset Inventory, for a project cost of \$54,160.00

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

H. 16-232

Consideration, discussion, possible approval and authorization to execute Resolution No. 909, a Resolution authorizing the City Attorney to file a Quiet Title Petition in the matter of the City of Broken Arrow, an Oklahoma Municipal Corporation v. the Heirs, and Unknown Heirs, Personal Representatives, Devisees, Trustees, Successors and assigns of Ira N. Jones, Deceased, et al., in the Tulsa County District Court, ratifying payment of the ad valorem taxes on the subject property; and agreeing to entry of judgment without admitting liability; and directing the City Attorney to prepare and file the necessary documents to effectuate judgment, including a Journal Entry of Judgment incorporating the resolution of the Court's approval, pursuant to 12 O.S. §1141

Ms. Wilkening said that Ira Jones obtained title to some property in 1936 and his wife was never officially listed in connection with the property. Whenever they had conveyed property to the City previously, it was she who executed the deed. The City was under the assumption that she was on the deed or had some property interest in it. She had executed a deed providing additional property to the City and was paid \$20,000; however, one day the City received notice from the Tax Office that taxes were due and owing, because apparently she didn't have any ownership interest in the property. They contacted the attorney who handled the City's title work and he suggested they file a quiet title action because Mrs. Jones died after her husband and after she executed the deed to the City. To complicate matters, it was believed that the Joneses were residents of California, so they were unable to locate any sort of testamentary documents. After extensive research on the matter, it was recommended that the Council approve Resolution No. 909, authorizing them to file a Quiet Title Petition in Tulsa County District Court and go forward with notification.

Councilman Eudey inquired if they had done a title opinion before she deeded it to the City and Ms. Wilkening replied, apparently not. She explained that usually when they obtained appraisals, they didn't go to the extent of doing a stand-up title opinion, but they usually pulled the deeds, making them available to the City. However, the City made the assumption that she had title because she had executed the previous deed. Hopefully, the matter could be cleared up and serve as a lesson. Councilman Eudey asked if they were not also doing a title opinion to make sure that there weren't any other people connected to the property and its previous owner. Ms. Wilkening replied that she believed that they

had discussed it with Mr. Francis, but she and Mr. Francis would follow up to make sure of it.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to approve Resolution No. 909 and authorize its execution

The motion carried by the following vote:

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

I. 16-375

Consideration, discussion, possible approval and authorization to execute Resolution No. 913, a Resolution authorizing the City Attorney to enter into a proposed Joint Application for Approval of Settlement and a Journal Entry of Judgment in regard to the Tort Claim filed by Gary Clark, and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry of Judgment for the court's approval, pursuant to 51 O.S. § 158

Ms. Wilkening stated that the Resolution authorized the City Attorney to resolve an excessive force case. She elaborated that the Legal team, working in cooperation with Scott Wood, Esq., who typically represented police officers in such cases, did not believe that the police officers in question were culpable. The police had been called by Wagoner County to assist in resolving a situation where a Mr. Clark had attacked his brother with a knife. The suspect was mentally ill and had gone off his medication. A lawsuit hadn't been filed yet, and they would have to file a lawsuit note in order to resolve it. The suspect survived but had about \$100,000 in medical bills, about \$30,000 of which was paid by Medicaid, and it was Medicaid that would have to have the judgment satisfied in terms of liens and such. Mr. Clark spent a year in jail and just before he was set to go to trial, the District Attorney's office conceded that he was not competent to stand trial. He was sent to a mental health facility and had been released, or was due to be released. However, there was concern over the fact that the Wagoner County Sheriff had been indicted and some Wagoner County officers were implicated as well. The Legal Department had had numerous discussions with the Broken Arrow police officers and called in Mr. Wood to consult and review the facts. They did not think the Broken Arrow officers had done anything wrong, but they were put in a bad situation. It stood to reason that with residences close by, someone could have been hurt had Mr. Clark not been taken into custody. Another allegation by Mr. Clark, in addition to that of his wrongful imprisonment, was that he did not receive follow-up physical therapy for his injuries. The Legal Department felt that should they proceed to trial with Wagoner County in the lawsuit against the Sheriff and the three deputies, their chance of winning would not be good. It was therefore recommended that they settle for the limits of the tort claims for other injuries in the amount of \$125,000, and then roughly the \$30,000 on top of that. That added up to \$156,967. The City had handled an excessive force case several years prior, and the cost and attorneys fees where they prevailed were in excess of \$100,000. They didn't have to try the case and won on motions for summary judgment. They retained outside counsel for the officer and ended up flying to Denver to argue the case, which they did successfully. Considering the individuals that were going to be named, cost of litigation, and the mental well being of Broken Arrow's police officers, they felt it would be preferable to resolve the issue sooner rather than later, and put the expenditure out on the table first. Broken Arrow's Police Chief was in agreement, as were the officers involved. Ms. Wilkening said she would welcome questions.

Councilman Eudey observed that they were being asked to consider the Resolution because a cost benefit analysis found that the cost of proceeding could, in all likelihood, exceed the cost of settling. He asked if that were correct. Ms. Wilkening stated it was correct, adding that her best estimate was that if they went to trial – and it would have to be down in Muskogee – engaging experts, doing depositions and going through a week-long trial, with certain appeal to Denver to follow, would cost close to \$375,000. Councilman Eudey stated that it was important to him that they consult with the police officers in question and make it clear that were the City to choose that route, it would not be a reflection on them or their actions, but simply a desire to avoid further litigation. Ms. Wilkening said the Chief of Police could speak to that, and they had kept the police officers involved at every stage of the process, and had had many discussions with them, together with Police Chief Boggs and Mr. Wood.

Councilman Lester asked whether, in approving the Resolution, they could not declare that they were in full support of the officers. Ms. Wilkening answered that the way they wrote the Resolution did not admit any wrongdoing. Councilman Lester explained that it was important for him to let the police officers know that he was behind them 100 percent. Police Chief Boggs spoke to the Council, informing them that he had conveyed directly to the officers the Council's support and the officers understood and were very appreciative. They had had lengthy conversations with the officers, as a group and individually, so that they understood that it was in the best interest of everyone involved. Councilman Lester stated that the public needed to understand that while the City was paying roughly \$157,000, it was still 100 percent behind Broken Arrow's police officers. Chief Boggs said he respected Councilman Lester's position.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.
Move to approve Resolution No. 913 and authorize its execution, with the caveat that he, Councilman Lester, was 100 percent behind the actions of Broke Arrow's Police Officers

The motion carried by the following vote:
Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Councilman Eudey stated that he was reluctantly voting yes as well.

J. 16-380 Consideration and possible reappointment of Steven E. Edgar as Presiding Judge and Dennis A. Sagely as Alternate Judge for the City of Broken Arrow Municipal Court

Ms. Wilkening reported that the Judicial Nominating Committee, pursuant to the nominations that were approved about a month before, met, and in record time nominated Steven Edgar to be reappointed as Presiding Judge, and Dennis Sagely as Alternate Judge. The Committee, comprised of defense lawyers and citizens, forwarded a letter in wholehearted support of the nominations, and it was a testament to the two gentlemen that they continued to receive recommendations for reappointment. There was a process the Council could invoke should it not wish to go that route but it was the recommendation of the Committee that they be reappointed.

Councilman Eudey commented that prior to his election he had the privilege of appearing before both Judges and he had also worked with them. He believed they were serving the community well.

MOTION: A motion was made by Scott Eudey, seconded by Richard Carter.
Move to approve reappointment of Steven E. Edgar as Presiding Judge and Dennis A. Sagely as Alternate Judge for the City of Broken Arrow Municipal Court

The motion carried by the following vote:
Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

10. Preview Ordinances

A. 16-374 Consideration, discussion and possible preview of an ordinance amending the Broken Arrow Code by amending Chapter 10, Fire Prevention and Protection, Article IV. - Explosives, Division 1. - Generally, Section 10-72. - Classified; and Section 10-73. - Manufacture; specifically excepting from the definition of explosives small arms ammunition and components thereof; repealing all ordinances to the contrary; and declaring an emergency

Ms. Wilkening stated that the ordinance brought them into compliance with State statute, exempting small arms ammunition and components from the definition of explosives. It was reviewed by the Fire Department and they were in agreement. She requested the Council preview the ordinance and set it for adoption at the next meeting.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:
Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-369 Consideration, discussion and possible preview of an ordinance closing a mutual road easement on property located in the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East, Berwick South, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of W. Florence Street and east of S. Mingo Road; repealing all ordinances to the contrary; and declaring an emergency

Ms. Wilkening advised the Mayor that it would be preferable to handle item B, and the two following items, by one motion. There was a law firm that was requesting the closure of utility easements, road easements, and those sorts of things, for the purpose of replatting. All the utility companies were in agreement. She requested the Council preview items 10B, 10C, and 10D and set them for adoption at the next meeting.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to preview the ordinances under items 10B, 10C, and 10D and set them for adoption

The motion carried by the following vote:
Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

C. 16-351 Consideration, discussion and possible preview of an ordinance closing a stormwater drainage easement on property located in the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East, Berwick South, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of W. Florence Street and east of S. Mingo Road; repealing all ordinances to the contrary; and declaring an emergency

- D. 16-353 **Consideration, discussion and possible preview of an ordinance closing a waterline easement on property located in the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East, Berwick South, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of W. Florence Street and east of S. Mingo Road; repealing all ordinances to the contrary; and declaring an emergency**

11. Ordinances

There were no ordinances. No action was required or taken.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond reported that he and some senior staff members would not be present at the next City Council meeting because they would be going on the DC fly-in with the Tulsa Chamber of Commerce. He had meetings scheduled to talk with their legislators about a couple of grants, specifically a SAFER grant (Staffing for Adequate Fire and Emergency Response) and a transportation grant, so the Vice Mayor would be in charge.

Vice Mayor Carter wished to commend the volunteers that were present that night. They, and volunteers all over the City, were a great group of people, giving generously of their time, energy, and money sometimes, to make life in Broken Arrow better as a whole. They could not be thanked enough because the role the hundreds of volunteers played in the community and in aiding their fellow citizens was crucial to the life of the City.

13. Remarks and updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials

Mr. Spurgeon said he would like to echo Vice Mayor Carter's comments regarding the volunteers. He wished also to commend Police Chief Boggs' and Lisa Ford's efforts and thanked Ms. Ford, Chief Boggs, and his team. It was wonderful to have so many people want to come and help serve, and it required a great deal of time logistically, on the part of the administration, to schedule volunteers, and provide them with useful and meaningful tasks.

Mr. Spurgeon reported that on the 24th of March, he attended his first firefighters' graduation. Fire Chief Moore and his team did a great job inducting and incorporating 21 new firefighters in the three platoons that past week. It was outstanding to see individuals so highly motivated to serve Broken Arrow, and Mr. Spurgeon wished to pass on his congratulations to Chief Moore and his team.

He wished to reiterate the fine job Krista Flasch had done on the new website. Council members had made it very clear the previous summer that transparency in all they did was extremely important, and even the audio/visual improvements made, with respect to meetings in the Council Chambers, counted in that respect.

Mr. Spurgeon congratulated and thanked Mr. Caldwell and his Finance team on the audit. It was no easy feat being responsible for a multi-million dollar corporation. He had been spending nearly three weeks, himself, working on his first budget with the City. A lot went into putting a type of document with that degree of responsibility together. It was nice to see the passion of the department directors, making sure they conveyed what they believed was important to manage their departments and continue and serve the citizens. Budget sessions were also a useful way to talk about where they were and where they were going. Obviously, needs and wants always exceeded revenues available, and the bottom line was they had to live within their budgets. The directors understood that and did a good job of communicating it to their staff.

At the first meeting in May, Mr. Spurgeon said he would ask the Council members to discuss the church property. He wanted to make sure that there was full discussion on the matter since some had been approached about possible use of the property, and to make sure that the administration had a clear direction to go forward, as the Council directed.

Mayor Thurmond asked for a motion to recess at approximately 7:41 p.m. in order to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority meetings, prior to the Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to recess in order to enter into the Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 7:43 p.m. and asked for a motion to recess prior to entering into the Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to recess prior to entering into the Executive Session

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Mayor Thurmond reconvened the regular Council meeting at approximately 7:50 p.m. and asked for a motion to clear the room and enter into the Executive Session.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

14. Executive Session

Executive Session for the purpose of confidential communications between the Broken Arrow City Council, the City Manager and the City Attorney, and possible action in open session on matters pertaining to the following:

- 1. The appraisal of real property located on the North side of Tiger Hill (on the Southwest corner of Lynn Lane and Kenosha), and an economic development proposal for this area to include the transfer of property and the creation of a proposal to entice businesses to locate within the City of Broken Arrow, taking appropriate action in open session, including direction for the City Manager and Staff to continue negotiations for an economic development proposal and obtaining additional appraisals, under 25 O.S. §307(B)(3) and 25 O.S. §307(C)(10); and**
- 2. Pending litigation and offer of settlement and taking appropriate action in open session in the matter of Eric Tyler Manke v. City of Broken Arrow, Tulsa County District Court Case Number CJ-2016-1144, under 25 O.S. §307(B)(4).**

At approximately 8:12 p.m., Mayor Thurmond reconvened the regular session of the City Council meeting and the room was opened to the public. The Mayor asked if there was a motion.

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to find that the Executive Session was necessary to process the pending litigation in the public interest

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to authorize the City Attorney to authorize both a motion to dismiss and offer to confess in the amount of \$57,712.78 in the Manke litigation

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

MOTION: A motion was made by Richard Carter, seconded by Mike Lester.

Move to authorize the Economic Development Director to continue to negotiate for an Economic Development Agreement for the North Side of Tiger Hill

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 8:14 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Attest:

Mayor

City Clerk